

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

ZEXI LI, HAPPY GOAT COFFEE COMPANY INC,
7983794 CANADA INC. (c.o.b. as UNION: LOCAL 613)
and GEOFFREY DEVANEY

Plaintiffs/Moving Parties

and

CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING, JAMES
BAUDER, BRIGITTE BELTON, DANIEL BULFORD, DALE ENNS, CHAD EROS, CHRIS
GARRAH, MIRANDA GASIOR, JOE JANSEN, JASON LAFACE, TOM MARAZZO, RYAN
MIHILEWICZ, SEAN TIESSEN, NICHOLAS ST. LOUIS (a.k.a. @NOBODYCARIBOU),
FREEDOM 2022 HUMAN RIGHTS AND FREEDOMS,
JOHN DOE 1, JOHN DOE 2, JOHN DOE 3, JOHN DOE 4, JOHN DOE 5,
JOHN DOE 6, JOHN DOE 7, JOHN DOE 8, JOHN DOE 9, JOHN DOE 10,
JOHN DOE 11, JOHN DOE 12, JOHN DOE 13, JOHN DOE 14, JOHN DOE 15,
JOHN DOE 16, JOHN DOE 17, JOHN DOE 18, JOHN DOE 19, JOHN DOE 20,
JOHN DOE 21, JOHN DOE 22, JOHN DOE 23, JOHN DOE 24, JOHN DOE 25,
JOHN DOE 26, JOHN DOE 27, JOHN DOE 28, JOHN DOE 29, JOHN DOE 30,
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JOHN DOE 46, JOHN DOE 47, JOHN DOE 48, JOHN DOE 49, JOHN DOE 50,
JOHN DOE 51, JOHN DOE 52, JOHN DOE 53, JOHN DOE 54, JOHN DOE 55,
JOHN DOE 56, JOHN DOE 57, JOHN DOE 58, JOHN DOE 59 JOHN DOE 60,
JANE DOE 1 and JANE DOE 2

Defendants

Proceeding under the *Class Proceedings Act*, 1992

AIDE MEMOIRE OF THE PLAINTIFFS
(MARCH 9, 2022 MOTION TO EXTEND MAREVA)

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Acting as Agent to Champ & Associates, Counsel
for the Plaintiffs, Zexi Li, Happy Goat Coffee
Company Inc, 7983794 Canada Inc. (c.o.b. as
Union: Local 613) and Geoffrey Devaney

PART I - OVERVIEW

1. The parties are agreed or appear to be agreed in principle on the following issues:
 - (a) The unfreezing of Chris Garrah's RBC Account 8449 which is not subject to the Mareva Order or the Attorney General Restraint Order (the "**Garrah Personal Account**");
 - (b) The release of \$1.4 million from TD's bank account to the Escrow Agent to be preserved pending further Order of the Court (the "**TD Funds**");
 - (c) The release of the Chris Garrah adopt-a-trucker funds held in an RBC account, subject to a consent variation of the Attorney General of Ontario ("**AG**") Restraint Order;
 - (d) The transfer of Mr. St. Louis' cryptocurrency seed words to the Escrow Agent, to permit the St. Louis/Dichter cryptocurrency to be held by the Escrow Agent; and
 - (e) The transfer of any GiveSendGo Freedom Convoy funds held in Canadian bank accounts or by Canadian payment processors, subject to a consent variation of the AG Restraint Order.
2. The issues before this Court for today's hearing are described more fully below.

PART II - SUMMARY OF FACTS

3. The Mareva Injunction granted on February 17, 2022 (the "**Mareva Order**") applied to the following assets:

- (a) Any and all assets of Freedom 2022 Human Rights and Freedoms (“**Freedom 2022**”) including but not limited to any and all funds donated through GiveSendGo LLC;
 - (b) Any and all funds held in the bank account of Patrick King located at ATB Financial, as well as any all assets raised in connection with transaction of the Freedom Convoy Token;
 - (c) Any and all funds held in the bank account controlled by Tamara Lich into which she was receiving etransfers for Freedom Convoy fundraising;
 - (d) Any all funds raised by Chris Garrah for his adopt-a-trucker campaign, whether by way of GiveSendGo, through an email donation campaign or specific cryptocurrency wallets; and
 - (e) Specific cryptocurrency wallets controlled by or on behalf of Benjamin Dichter and Nicholas St. Louis.
4. On February 28, 2022 this Honourable Court made an Order varying and extending the Mareva Injunction (the “**Extension and Escrow Order**”). On consent of the Mareva Respondents an Escrow Agent was appointed with respect to various assets:
- (a) Any and all funds held in the bank account of or controlled by the Escrow Respondent, Christopher Garrah, which he has received or is receiving as donations by way of the “Adopt-a-Trucker” website or etransfers by way of the email address donations@adopt-a-trucker.ca (the “**Garrah Adopt-A-Trucker Account**”);

- (b) Any and all digital assets or cryptocurrency that are or were held in the digital wallets listed in paragraph 7 of Schedule “A” to the Mareva Order (the “**Garrah Cryptocurrency**”);
- (c) Any and all digital assets or cryptocurrency that are or were held in the digital wallets listed in paragraph 9 of Schedule “A” to the Mareva Order (the “**Dichter and St. Louis Cryptocurrency**”)

5. The balance of the assets remained subject to the Mareva Order. The Mareva Order was extended to March 9, 2022.

THE TD TAMARA LICH FUNDS

6. The Toronto-Dominion Bank (“**TD**”) is holding approximately \$1,393,406.98 in funds on deposit in two personal bank accounts (the “**TD Funds**”). The content of those accounts consists of direct email transfers by individuals and a lump sum transfer from GoFundMe, Inc. Tamara Lich is an account holder on both accounts.

7. The Plaintiffs, the Respondents, and the AG have agreed to an Order that the TD Funds be transferred to the Escrow Agent, that the liability of TD with respect to the TD Funds be extinguished and that TD shall discontinue its interpleader application in relation to the TD Funds. Counsel for TD Bank will address outstanding issues between the parties, if any, with respect to the proposed Order.

THE CHRIS GARRAH ASSETS

8. Chris Garrah holds two accounts at the Royal Bank of Canada which are currently frozen by the Royal Bank of Canada.

(i) The Garrah Personal Account

9. Chris Garrah seeks an order that the freezing imposed by RBC against Account 8449 be lifted. The account appears to be a personal account not subject to the Mareva Order. As a result, the Plaintiffs have no objection to the unfreezing of the account. It is the Plaintiffs' understanding that the AG similarly has no objection to the lifting of the restraint against Account 8449.

(ii) The Adopt-a-Trucker Account

10. Chris Garrah had approximately \$141,000 in RBC Account 5474, the Adopt-a-Trucker Account. Upon review of the account statements produced by Mr. Garrah following the last attendance on this matter, Account 5474 contains both individual e-transfers to the account as well as transfers from GiveSendGo's payment processor, Stripe (the "**RBC Funds**"). As a result, Account 5474 is subject to the Restraint Order of McWatt A.C.J. dated February 10, 2022 (the "**Restraint Order**").

11. In light of the Restraint Order, RBC has been unable to transfer the funds to the Escrow Agent in accordance with this Court's February 28, 2022 Order.

12. It is the Plaintiff's understanding that the AG does not object to the TD funds being paid into the Escrow account, as long as the order provides that the Restraint Order applies as against those funds. In order to effect the transfer of funds to the Escrow Agent, the Restraint Order must be varied to permit the transfer of funds from RBC to the Escrow Account.

13. Paragraph 4 of the February 10, 2022 Restraint Order provides:

4. THIS COURT FURTHER ORDERS that no variation shall be made to this order other than by order of this Court on application in accordance with the Criminal Proceedings Rules served on all affected parties, however, provided that counsel for the Attorney General for

Ontario may, on three clear days' notice to any affected parties, apply to a Judge of this Court to vary, amend, add, or delete terms in relation to this order, or to terminate this order.

14. It is the Plaintiffs' understanding that no party with an interest in the assets subject to the February 10, 2022 Order objects to a variation of the Restraint Order to permit the transfer to the Escrow Agent.

15. The Plaintiffs therefore respectfully request:

- (a) a variation of the Restraint Order to permit the transfer of the funds subject to the Restraint Order to the Escrow Agent;
- (b) an order directing that the RBC Funds, including the GiveSendGo funds be transferred to the Escrow Agent;
- (c) in the alternative, an order that Mareva Order remain in place with respect to the RBC Funds until the AG has had an opportunity to seek to vary the Restraint Order to permit the transfer to the Escrow Agent.

(iii) The Garrah Cryptocurrency

16. In accordance with the Extension and Escrow Order, Chris Garrah has effected the transfer of certain cryptocurrency to the Escrow Agent.

17. There has been insufficient time since the transfer of that cryptocurrency for the Plaintiffs to satisfy themselves that the Extension and Escrow Order has been complied with in relation to the Garrah cryptocurrency. The Plaintiffs will consult with Escrow Agent and counsel for Mr. Garrah prior to the next court attendance and will report as to whether there are any concerns to be addressed.

(iv) *The \$10,000 Bank Draft*

18. Mr. Garrah's March 8, 2022 affidavit indicates that he is in possession of a bank draft payable to the Respondent Freedom 2022.¹ These funds are subject to the Mareva Order. The Plaintiffs seek an Order that Mr. Garrah provide the bank draft to the Escrow Agent for deposit into the escrow account.

THE DICHTER AND ST. LOUIS CRYPTOCURRENCY

(i) *The multi-signature wallet*

19. The Extension and Escrow Order provides that Mr. Dichter and Mr. St. Louis are required to provide their seed words for the relevant cryptocurrency wallets to the Escrow Agent.

20. Following the granting of the Escrow Order, a search warrant was executed on Mr. St. Louis.² Various seed phrases for certain of the cryptocurrency Mareva assets were seized. As a result, Mr. St. Louis was not able to provide the seed phrases in his possession to the Escrow Agent.

21. Mr. Dichter was in possession of the second set of seed words for the multi-signature wallets to effect the transfer the cryptocurrency. Although he initially provided the seed phrases to his counsel pending a resolution Mr. St. Louis seed phrases being provided to the Escrow Agent³, Mr. Dichter provided the seed phrases to the Escrow Agent on March 8, 2022.

¹ Garrah Affidavit, para. 12

² St. Louis Affidavit, para. 10

³ Dichter Affidavit, para. 3

22. It is the Plaintiffs understanding that the OPP will be providing the St. Louis seed words to the Escrow Agent so that the Escrow Agent taking possession of the cryptocurrency assets in accordance with the Extension and Escrow Order.

23. The AG asks that the Court Order require that the AG be provided with thirty days notice of any disposition or other hearing related to the cryptocurrency. The Plaintiffs have no objection to this request.

(ii) *The Lighting/OnChain CryptoCurrency*

24. Mr. St. Louis' evidence is that he is "aware" that there is a balance of bitcoin cryptocurrency that was collected via donations stored in various Lighting/OnChain addresses but claims that Benjamin Perrin controls those funds.⁴ According to Mr. St. Louis, Mr. Perrin is unable to complete the transfer of the cryptocurrency until March 20, 2022 when Mr. Perrin returns from vacation.

25. Mr. St. Louis has described himself publicly as the "primary liaison" between the Bitcoin community and Freedom 2022. Either Mr. Perrin (a custodian who was provided with notice of the Mareva Order), Mr. St. Louis or both have control of the Lighting/OnChain cryptocurrency.⁵

⁴ St. Louis Affidavit, para. 11

⁵ In an article published by Bitcoin Magazine on February 14, 2022, Mr. Perrin indicated that he no longer had control over the cryptocurrency raised by the freedom convoy: "Only Nobocy Caribou [Mr. St. Louis] and BJ Dichter (one of the truckers) are privy to who holds keys. Myself, Greg [Foss] and Jeff Booth no longer hold keys as we were previously points of failure." The article "Bitcoin Fundraising for Ottawa Truckers Freedom Convoy Hits Close to One Million" is found at Exhibit SS to the Affidavit of Jeremy King sworn February 15, 2022, Motion Record (*Mareva* Injunction), Tab 4SS, pp 311

26. Accordingly, the Plaintiffs respectfully request an Order that by no later than March 22, 2022, the Lighting/OnChain freedom convoy cryptocurrency be transferred to the Escrow Agent for deposit to the escrow account.

THE GIVESENDGO FUNDS

27. The GiveSendGo Funds subject to the Mareva and Restraint Order fall into three categories:

- (a) The RBC Funds which are addressed above;
- (b) Funds held in one or more Canadian bank accounts;
- (c) The remaining GiveSendGo funds which are in the control of Freedom 2022 pursuant to the February 9, 2022 Agreement with Jacob Wells.⁶

28. It appears that the only issue in dispute among the parties is the third category.

29. As set out above, the Plaintiffs respectfully request a variation of the Restraint Order to permit the transfer of the funds subject to the Restraint Order to the Escrow Agent and an Order directing that the GiveSendGo funds be transferred to the Escrow Agent. Such an Order will permit and require any Canadian payment processor or financial institution with GiveSendGo Freedom 2022 funds to transfer them to the Escrow Agent, in much the same way as the TD Funds.

30. Mr. Eros takes the position that Freedom 2022 is not in possession, power or control of the GiveSendGo Funds.

⁶ Exhibit "C" to the Eros Affidavit

31. The agreement between Freedom 2022 and Mr. Wells of GiveSendGo is to the opposite effect. The agreement provides:

2. Subject to clause 2, Jacob Wells agrees that he shall send all funds collected and held by him to an interim bank account as directed by FREEDOM 2022.

3. Upon remittance of the funds to the FREEDOM 2022 interim bank account, Jacob Wells shall be entitled to deduct from the funds received under this Agreement third-party process fees...consistent with the fees which are detailed on GiveSendGo's pricing and fees page...

4. This Agreement shall remain in place until such time as the FREEDOM 2022 notifies Jacob Wells of the banking details for its new banking arrangements so that this interim Agreement is no longer needed.

32. Pursuant to this Agreement, Freedom 2022 has the contractual right to direct Mr. Wells to deliver the GiveSendGo funds to Escrow Agent's bank account.

33. The Plaintiffs respectfully request an Order that Freedom 2022 and its Directors and Officers including Mr. Eros, Ms. Lich, Mr. Garrah and Mr. Dichter direct Mr. Wells to direct the GiveSendGo funds to the Escrow Agent.

PATRICK KING

34. Patrick King currently remains in custody and has not yet responded to this proceeding or the Mareva Order. The Mareva Order in respect of Mr. King should be extended until further Order of this Court.

OTHER ANCILLARY MATTERS

(i) Order Extending the Mareva

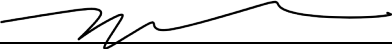
35. The Plaintiffs request that the Mareva Order otherwise remain in place, until at least the next attendance:

- (a) It is not yet clear whether all of the assets fundraised by the Freedom Convoy organizers have been captured by these orders. Disclosure remains ongoing from the financial institutions and cryptocurrency exchanges. The Respondents have made disclosure in their affidavits of assets not previously identified. It is not clear whether all such assets have been identified. Not all of the cryptocurrency has yet been located.
- (b) The Plaintiffs wish to reserve their right to obtain disclosure affidavits from the respondents and to conduct cross examination on those affidavits or the affidavits delivered in support of this attendance in order to test whether all of the assets fundraised by the Freedom Convoy organizers have been disclosed to the Plaintiffs and this Honourable Court.
- (c) The Mareva injunction does not otherwise affect the personal assets of any of the Mareva Respondents and as such there is no prejudice in the Order remaining in force.

(ii) *Order Amending the Claim*

36. The Plaintiffs have delivered a motion for an Amended Fresh as Amended Statement of Claim. No defences have been delivered to the Claim. The proposed amendments are underlined in the motion record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 9th day of March, 2022.



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ZEXI LI, et al

-and-

CHRIS BARBER, et al

Plaintiff

Defendants

Court File No. CV-22-00088514-00CP

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